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ENERGY CORPORATION OF AMERICA

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

RUSSIAN HILL CAPITAL, L.P.,

Case No. 3:15-cv-02554-HSG

Plaintiff,

**STIPULATION AND ORDER
SETTING BRIEFING SCHEDULE ON
DEFENDANT'S PLANNED MOTION
TO DISMISS FIRST AMENDED
COMPLAINT**

VS

**ENERGY CORPORATION OF AMERICA
and DOES 1-10.**

Civil L. R. 7-3

Defendants

Before the Hon. Haywood S. Gilliam, Jr.

RECITALS

WHEREAS, Plaintiff Russian Hill Capital, L.P. (“Russian Hill”) commenced this action by filing its Complaint For: (1) Fraud [and] (2) Misrepresentation of Facts – Cal Corp Code § 25501(the “Complaint”) on May 5, 2014 in the Superior Court of the State of California, County of San Francisco:

WHEREAS, Russian Hill served the Complaint on Defendant Energy Corporation of America (“ECA”) on May 14, 2015;

WHEREAS, ECA removed the action to this Court on June 9, 2015, with ECA's filing of its Notice of Removal;

WHEREAS, on June 16, 2015, ECA filed a motion to dismiss the Complaint;

WHEREAS, on July 7, 2015, Russian Hill elected not to oppose ECA's motion to dismiss and instead exercised its right under Fed. R. Civ. P. 15(a)(1)(B) to amend its pleading by filing its First Amended Complaint For: (1) Fraud, (2) Misrepresentation of Facts – Cal Corp Code § 25501, [and] (3) Violation of Section 14(e) of the Exchange Act (the "First Amended Complaint");

WHEREAS, ECA intends to file a motion to dismiss directed to the First Amended Complaint (the “Motion”);

WHEREAS, the parties have conferred concerning a briefing and hearing schedule for the Motion; and

WHEREAS, the parties wish to (a) extend by one week the time specified in Fed. R. Civ. P. 15(a)(3) for filing the Motion, (b) set a hearing date for the Motion, and (c) modify the briefing schedule from that normally provided for in Civil L. R. 7-3, on terms that will both accommodate certain commitments of counsel on other matters and still afford the Court 21 days of preparation time before the hearing date;

THEREFORE, subject to the Court's approval, the parties agree as follows:

STIPULATION

1. ECA shall file its Motion on or before July 28, 2015, and will notice the Motion for hearing on the Court's regular civil law and motion calendar for September 24, 2015;

2. Russian Hill shall file any papers in opposition to the Motion on or before August 20, 2015.

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**STIP. & [PROPOSED] ORDER RE BRIEFING SCHEDULE
ON PLANNED MOT TO DISMISS**

CASE NO. 3:15-cv-02554- HSG

1 3. ECA shall file any reply papers on or before September 3, 2015.

2 Dated: July 13, 2015

VINSON & ELKINS LLP

4 By: /s/ Michael L. Charlson
5 Michael L. Charlson

6 Attorneys for Defendant
7 ENERGY CORPORATION OF AMERICA

8 KAUFHOLD GASKIN LLP
9 Steven S. Kaufhold (SBN 157195)
10 Jonathan B. Gaskin (SBN 203615)
11 388 Market Street, Suite 1300
12 San Francisco, California 94111
13 Telephone: (415) 445-4620

14 By: /s/ Steven S. Kaufhold
15 Steven S. Kaufhold

16 Attorneys for Plaintiff
17 RUSSIAN HILL CAPITAL, LP

ORDER

Pursuant to stipulation of the parties and good causing appearing, the briefing and hearing schedule on Defendant Energy Corporation of America's planned motion to dismiss the First Amended Complaint of Plaintiff Russian Hill Capital, L.P., shall be as follows:

1. The motion to dismiss shall be filed on or before July 28, 2015.
2. Any opposition papers shall be filed on or before August 20, 2015.
3. Any reply papers shall be filed on or before September 3, 2015.

Subject to any further order of the Court, the motion to dismiss shall be noticed for hearing as part of the Court's regular law and motion calendar on September 24, 2015.

SO ORDERED.

Dated: July 15, 2015

Haywood S. Bell, Jr.
United States District Judge

1 ATTESTATION OF ELECTRONIC FILING

2 I, Michael L. Charlson, am the ECF User whose ID and password are being used to file
3 this STIPULATION AND [PROPOSED] ORDER SETTING BRIEFING SCHEDULE ON
4 DEFENDANT'S PLANNED MOTION TO DISMISS FIRST AMENDED COMPLAINT. I
5 hereby attest that counsel whose e-signatures appear above have concurred with this filing.

6 Dated: July 13, 2015

By: /s/ Michael L. Charlson
Michael L. Charlson

7
8 Attorneys for Defendant
9 ENERGY CORPORATION OF AMERICA

10 CERTIFICATE OF SERVICE

11 The undersigned certifies that on July 13, 2015, the foregoing document was
12 electronically filed with the Clerk of the Court for the UNITED STATES DISTRICT COURT,
13 NORTHERN DISTRICT OF CALIFORNIA, using Court's Electronic Case Filing (ECF) system.
14 The ECF system routinely sends a "Notice of Electronic Filing" to all attorneys of record who
15 have consented to accept this notice as service of this document by electronic means.

16 The undersigned certifies that on July 13, 2015, a true and correct copy of the foregoing
17 document was served on counsel of record listed below by U.S. Postal Service:

18
19 **Steve Kaufhold**
20 **Kaufhold Gaskin LLP**
21 **388 Market Street, Suite 1300**
22 **San Francisco, CA 94111**

23 By: /s/ Michael L. Charlson
Michael L. Charlson

24 Attorneys for Defendant
25 ENERGY CORPORATION OF AMERICA